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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,208	06/20/2003	Curtis A. Vock	409512	7339

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EXAMINER	
WACHSMAN, HAL D	

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,208	VOCK ET AL.	
	Examiner	Art Unit	
	Hal D. Wachsman	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *RCE (11-28-05)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 June 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8-23-04,11-28-05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11-28-05 has been entered.

2. The declaration indicates that Eric R. Edstrom and Robert Muir Holme are part of the inventive entity of the instant application. However, both of these inventors are not indicated on PALM and the bibliographic data sheet as being part of the inventive entity. Thus, there is ambiguity with respect to what constitutes the inventive entity for the instant application. Appropriate explanation/correction is required.

3. The Preliminary Amendment of the instant application is improper under 37 C.F.R. 1.121 because the replacement paragraph for paragraph 0002 uses single brackets instead of double brackets for deleting text. In addition, under 37 C.F.R. 1.121 double brackets are used for the deletion of five or fewer characters. For greater than five characters deletion, strikethrough is used. Appropriate correction is required.

4. The Abstract is objected to because it is greater than 150 words in length and contains purported merits (i.e. "The sensor may be used in many applications...", "The sensor may also prevent theft and assist in tracking package disposition so as to reduce lost packages", "Data from sensors of the invention may also change the computer gaming community"). Appropriate correction is required.

5. Paragraph 0001 of the specification does not provide the current status of U.S. application serial no. 10297,270. Appropriate correction is required.

6. The listing of references in the specification (see paragraphs 0021-0025, 0028, 0032-0034, 00187, 00222, 00284, 00359, 00358) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

7. The use of the trademarks PLAYSTATION, SEGA and GAMEBOY (see paragraph 00306) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

8. Claims 10-31 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 10, line 4, cites "the sensors" however the antecedent basis is "one or more smart sensors". This same type of problem also occurs in claim 10, line 5, claim 13, line 2, claim 16, lines 3-4, claim 19, line 1, claims 24 and 25, line 1, claim 31, line 2. Claim 10, line 5, cites "the conditions" however the antecedent basis is "environmental conditions". This same type of problem also occurs in claim 10, line 7, claim 11, lines 1

and 2, claim 16, lines 5 and 6, claim 26, line 2. Claim 10, lines 5-6, cite "the second location" which lacks clear antecedent basis. Claim 11, line 2, cites "the first location" which lacks clear antecedent basis. The preambles of claims 11-15 cite "A method of claim 10.." which it appears should be "The method of claim 10..". Claim 12, line 2, cites "the sensors at the second location" which lacks antecedent basis. Claim 13 cites "A method of claim 10, wherein the step of monitoring environmental conditions comprises detecting acceleration...." however acceleration constitutes a singular environmental condition and not a plurality of environmental conditions as indicated in the preamble of the claim. This same type of problem also occurs in claims 15, 19, 21, 23, 28, 30. Claim 20, line 2, cites "comprising one or more of impact and temperature" however was this intended to be "comprising one or both of impact and temperature" ? Claim 27, line 3, cites "the sensors" however the antecedent basis is "plurality of identical smart sensors". The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

> applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 10-12, 15-18, 23, 24, 26, 27, 29 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (6,563,417).

As per claim 10, Shaw (see at least abstract) discloses "attaching one or more smart sensors directly to the product". Shaw (Abstract, figure 8, col. 3 lines 39-41, col. 4 lines 51-54, 61-66) discloses "monitoring environmental conditions of the product...wirelessly communicating the conditions from the sensors to a receiver at the second location". Shaw (figures 3, 8, col. 3 lines 22-28, col. 9 lines 6-26) discloses "communicating the conditions from the receiver to a third location".

As per claim 11, Shaw (figure 3, col. 9 lines 6-26) discloses the feature of this claim.

As per claim 12, Shaw (see at least abstract) discloses the feature of this claim.

As per claim 15, Shaw (Abstract, figure 2, col. 4 lines 66, 67, col. 5 lines 1-14, 48-55) discloses the feature of this claim.

As per claim 16, Shaw (Abstract, figures 3,8, col. 3 lines 22-28, 39-41, col. 4 lines 51-54, 61-66, col. 9 lines 6-26) discloses "one or more smart sensors for attachment to the product and an interrogating device... and wirelessly communicating data about the conditions... the interrogating device communicating the conditions over a network".

As per claim 17, Shaw (see at least figure 3) discloses the feature of this claim.

As per claim 18, Shaw (col. 5 lines 60-63) discloses the feature of this claim.

As per claim 23, Shaw (Abstract, figure 2, col. 4 lines 66, 67, col. 5 lines 1-14, 48-55) discloses the feature of this claim.

As per claim 24, Shaw (figure 2, col. 5 lines 6-9) discloses the feature of this claim.

As per claim 26, Shaw (col. 4 lines 5-15) discloses the feature of this claim.

As per claim 27, Shaw (col. 6 lines 7-16) discloses the feature of this claim.

As per claim 29, Shaw (figure 2, col. 5 lines 6-26) discloses the feature of this claim.

As per claim 31, Shaw (Abstract, col. 4 lines 48-62, col. 9 line 54) discloses the feature of this claim.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 13, 19, 22, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (6,563,417) in view of West (5,936,523).

As per claim 13, West (see at least abstract) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of West to the invention of Shaw as

specified above because as taught by West (col. 3 lines 5-6) an environmental condition of excessive acceleration could be from the dropping of a package and thus damage from mishandling (see West col. 1, lines 29, 30) of fragile shipping contents could be detected.

As per claim 19, West (see at least abstract) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of West to the invention of Shaw as specified above because as taught by West (col. 3 lines 5-6) an environmental condition of excessive acceleration could be from the dropping of a package and thus damage from mishandling (see West col. 1, lines 29, 30) of fragile shipping contents could be detected.

As per claim 22, West (Abstract, col. 10 lines 35-56) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of West to the invention of Shaw as specified above because as taught by West (col. 3 lines 5-6) an environmental condition of excessive acceleration could be from the dropping of a package and thus damage from mishandling (see West col. 1, lines 29, 30) of fragile shipping contents could be detected.

As per claim 25, West (figures 1, 2, 4, 5) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of West to the invention of Shaw as specified above because as taught by Shaw (col. 5 lines 6-26) time stamping of the

gathered environmental data in which temperature limits were exceeded for example, could be used to determine exactly who was responsible for any damage or spoilage of the product.

As per claim 28, West (see at least abstract) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of West to the invention of Shaw as specified above because as taught by West (col. 3 lines 5-6) an environmental condition of excessive acceleration could be from the dropping of a package and thus damage from mishandling (see West col. 1, lines 29, 30) of fragile shipping contents could be detected.

13. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (6,563,417) in view of Tennes et al. (4,745,564) and Thompson et al. (4,862,394).

As per claim 14, Tennes et al. (Abstract, col. 10 lines 19-32, 52-56) teaches attaching an accelerometer to the product. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Tennes et al. to the invention of Shaw as specified above because as taught by Tennes et al. (col. 1 lines 41-44) the accelerations experienced could be related to the damages incurred. It appears though that the above combination of references still does not clearly show the detecting of free fall to determine a drop distance. However, Thompson et al. (see at least abstract) teaches this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Thompson et al. to the inventions of

Shaw and Tennes et al. as specified above because as taught by Thompson et al. (col. 2 lines 3-6) it would enable the determination of free-fall drop heights experienced by packaged equipment during a shipment over an extended period of time.

14. Claims 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (6,563,417) in view of Tennes et al. (4,745,564).

As per claim 20, Shaw (Abstract, figure 2, col. 4 lines 66, 67, col. 5 lines 1-14, 48-55) discloses the temperature environmental condition. It appears though that Shaw does not clearly show the impact environmental condition. However, Tennes et al. (see at least abstract) teach an impact detection apparatus. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Tennes et al. to the invention of Shaw as specified above because as taught by Tennes et al. (col. 1 lines 41-44) the accelerations experienced could be related to the damages incurred.

As per claim 30, Tennes et al. (Abstract, col. 4 lines 33-36, col. 10 lines 19-32, 52-56) teach the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Tennes et al. to the invention of Shaw as specified above because as taught by Tennes et al. (col. 1 lines 41-44) the accelerations experienced could be related to the damages incurred.

15. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (6,563,417) in view of Thompson et al. (4,862,394).

As per claim 21, Thompson et al. (see at least abstract) teaches this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Thompson et al. to the invention of Shaw as specified above because as taught by Thompson et al. (col. 2 lines 3-6) it would enable the determination of free-fall drop heights experienced by packaged equipment during a shipment over an extended period of time.

16. The following references are cited as being art of general interest: Horwitz et al. (6,617,962) which disclose a system for multi-standard RFID tags, Moore (6,714,121) which discloses an RFID material tracking method and apparatus, Miura et al. (5,701,257) which discloses a shock measuring method in goods transportation, Francis et al. (US 2002/0070862 A1) which discloses an object tracking system using RFID tags, Gelvin et al. (6,735,630) which disclose the use of a compact internetworked wireless integrated network sensors, Richards (6,900,732) which discloses monitoring assets using impulse radio and Woolley (5,959,568) which discloses the monitoring of asset tags.

17. Applicant's arguments with respect to claims 10-31 have been considered but are moot in view of the new ground(s) of rejection.

18. No claims are allowed.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
February 13, 2006

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Commissioner for Patents

Hal D Wachsman
Primary Examiner
Art Unit: 2857